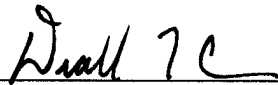


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q63309	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	09/901,153	July 10, 2001	
	First Named Inventor		
	Hyun-Sook KANG		
	Art Unit	Examiner	
	2616	Phirin Sam	
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number <u>52,778</u></p> <p style="text-align: right;"><u></u> Signature</p> <p style="text-align: right;"><u>Diallo T. Crenshaw</u> Typed or printed name</p> <p style="text-align: right;"><u>(202) 293-7060</u> Telephone number</p> <p style="text-align: right;"><u>October 26, 2007</u> Date</p>			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q63309

Hyun-Sook KANG, et al.

Appln. No.: 09/901,153

Group Art Unit: 2616

Confirmation No.: 5826

Examiner: Phirin Sam

Filed: July 10, 2001

For: WIRELESS COMMUNICATION DEVICE, WIRELESS COMMUNICATION SYSTEM
USING THE SAME, AND COMMUNICATION METHOD THEREOF

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated March 28, 2007, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicants turn now to the rejections at issue:

Claims 1-18 are all the claims pending in the present application. Claims 3, 4, and 8 are allowed, and claims 11 and 15 contain allowable subject matter and would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. The Examiner rejects claims 1, 2, 5-7, 9, 10, 12-14, and 16-18 under 35 U.S.C. § 102(e) as allegedly being anticipated by newly cited Rune (U.S. Patent Appln. Pub. No. 2001/0002906).

To overcome the prior art rejections over Rune, Applicants previously submitted a Rule 131 Declaration and Invention Disclosure Form showing that the present invention was made earlier than Rune's effective U.S. filing date of December 1, 2000. The Rule 131 Declaration and Invention Disclosure Form demonstrate and evidence conception of the invention prior to December 1, 2000, coupled with continued diligence to the filing of Korean Application No. 2001-00964 on January 8, 2001 (i.e., constructive reduction to practice), from which the above-

identified application claims benefit of priority. Accordingly, Applicants respectfully request the removal of the §102(e) rejection base on Rune.

In the *Response to Arguments* section of the Office Action dated May 9, 2007, the Examiner stated that the Office will not consider the above-noted submissions because all joining inventors did not submit the 37 C.F.R. §1.131 Declaration to overcome the rejections of the claims. The Examiner notes that Mr. Kuen Pyo Hong, the Director of the Patent Department at Samsung Electronics, Co., Ltd., executed the Rule 131 Declaration, however, the Examiner states that Mr. Kuen Pyo Hong is not the owner of the invention.

Applicants' representatives contacted the Examiner to explain that Mr. Kuen Pyo Hong submitted the Rule 131 Declaration on behalf of the assignee of the above-identified application, Samsung Electronics, Co., Ltd. The Examiner advised Applicants to file a Response based on the arguments presented during the discussion with the Examiner.

Accordingly, Applicants submitted a Response arguing that Mr. Kuen Pyo Hong, in his capacity as Director of the Patent Department at Samsung Electronics, Co., Ltd., is effectively representing Samsung Electronics, Co., Ltd., which is the owner of the invention by way of assignment. Samsung Electronics, Co., Ltd., is a business entity and therefore cannot execute such a Declaration. An authorized employee of Samsung Electronics, Co., Ltd. can be authorized to execute Declarations on behalf of the owner of a particular application. To further this point, Applicants submitted the enclosed Statement Under 37 C.F.R. § 3.73(b) affirming that Mr. Kuen Pyo Hong is authorized to act on behalf of the owner of the above-identified application, which is Samsung Electronics, Co., Ltd.

Inexplicably, in the Advisory Action dated August 30, 2007, the Examiner, after consulting with his SPE, maintained that Applicant's must adhere to the requirements of 37 C.F.R. § 1.42, 1.43, or 1.47 in order for the Rule 131 Declaration to be accepted. Applicants' respectfully submit that this requirement by the Examiner and his SPE is incorrect as MPEP 715.04(I)(D) explicitly states that an assignee or other party in interest may make an affidavit or declaration under 37 C.F.R. § 1.131 when it is not possible to produce the affidavit or declaration of the inventor(s), as is the case here. The requirements of 37 C.F.R. § 1.42, 1.43, or 1.47 apply to Declarations of inventorship filed at the time of submission of applications. 37 C.F.R. § 1.131 only mentions 37 C.F.R. § 1.42, 1.43, or 1.47 for the purpose of identifying the persons or

entities that are authorized to execute a Rule 131 Declaration. The specific requirements of 37 C.F.R. § 1.42, 1.43 or 1.47 do not have to be met to file a Rule 131 Declaration.

Conclusion

At least based on the foregoing arguments, Applicants respectfully request that the Rule 131 Declaration and Statement Under 37 C.F.R. § 3.73(b) be accepted by the USPTO, and Applicants request withdrawal of the rejections over Rune.

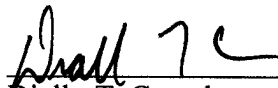
Respectfully submitted,

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WASHINGTON OFFICE

23373

CUSTOMER NUMBER


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Date: October 26, 2007